

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$4,040.48 for date of service, 08/27/01.
- b. The request was received on 08/13/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. Initial Submission of TWCC-60
    1. UB-92s
    2. EOB(s)
  - b. Additional documentation requested on 08/26/02 – No response found in the file.
  - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:

Based on Commission Rule 133.307 (g) (4), the Division notified the Requestor with a copy to the insurance carrier Austin Representative of the Requestor's requirement to submit two copies of additional documentation relevant to the fee dispute on 08/26/02. There is no response from the Requestor in the file nor is there a Carrier initial response or a 14-day response in the file. A "No Carrier Information Found" from the Respondent is reflected in Exhibit II.

3. Notice of "No Carrier Sign Sheet Found" is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: No position statement found.
2. Respondent: No response statement found.

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 08/27/01.

2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$6,502.45 for services rendered on the date of service in dispute above.
4. Per the Requestor's Table of Disputed Services, the Carrier paid the Requestor \$2,009.75 for services rendered on the date of service in dispute above.
5. The Carrier's EOBs denied any additional reimbursement as "C NEGOTIATED CONTRACT".
6. The Requestor did not respond to TWCC's request for additional information relevant to the dispute in accordance to Rule 133.307 (g) (3) (B). Therefore, there is no information regarding a managed care contract. Additionally, there is no MAR value for ambulatory surgical facility centers. Therefore this dispute will be reviewed as reduced to fair and reasonable.
7. The amount in dispute is \$4,040.48 for services rendered on the date of service in dispute above.

## V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate...."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (B) and (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. Rule 133.307 (g) (3) (B) states, "...the commission shall notify the parties and **require** (bolded for emphasis) the requestor to send to the commission, two copies of additional information relevant to the fee dispute. The additional information **shall** (bolded for emphasis) include...a copy of any pertinent medical records or other documents relevant to the fee dispute...." The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i) (1-4) places certain requirements on the Carrier when reducing the billed amount to fair and reasonable. However, the burden is on the provider to submit "...information relevant to the fee dispute..." and to show that the amount of reimbursement requested is fair and reasonable.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine which party has provided the most persuasive evidence of what is fair and reasonable. The Carrier has not submitted any evidence as to how they determined their reimbursement amount. No methodology was submitted as required by Rule 133.304 (i). The Provider, who has the burden as the Requestor, to prove its fees are fair and reasonable, did not submit a copy of a managed care contract nor did the Requestor provide sufficient information that supports its fees billed are fair and reasonable. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 9<sup>th</sup> day of April 2003.

Denise Terry  
Medical Dispute Resolution Officer  
Medical Review Division

DT/dt